

REMARKS

Claims 1-9, 14, 16, and 18-21 were examined in the most recent, final office action dated April 7, 2006. Applicants appreciate the indication that claim 8 would be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims. The remaining claims stand rejected as either anticipated by or obvious over various cited prior art references.

By way of this amendment, claim 8 is amended into independent form as suggested, and independent claims 1, 14, and 18 are amended to clarify previously claimed subject matter. Certain claim dependencies have also been amended, and dependent claim 22 has been added. Accordingly, no new consideration is required, and this amendment merely places the application in better condition for appeal. Entry of the amendment and allowance of all claims is respectfully requested.

Claim 8 is Allowable.

Claim 8 was indicated to be allowable if rewritten in independent form to include the limitations of the base claim and any intervening claims. By way of this amendment, claim 8 has been amended into independent form and includes the limitations of claim 1, the claim from which it depended. Accordingly, claim 8 is allowable.

Claim 1-7, 9, 13, and 18-21 are Allowable.

As amended, applicants respectfully traverse the rejection to claim 1 as anticipated under 35 U.S.C. § 102(b) by Forno, U.S. Patent No. 5,851,484. Claim 1 recites, in part, that the grip sized and shaped to permit the user to curl his or her fingers around the grip. Claim 18 recites similar subject matter, including that the grip is sized and shaped to permit a user to

curl his or her fingers around the grip while his or her fingers are disposed in the gap between the grip and the knuckle guard. Support for these amendments can be found in paragraph 21 of the specification and Fig. 4.

There is good and sufficient reason to enter the foregoing amendments. Specifically, after reading the final rejection, applicants now understand that the Examiner may not be fully appreciating some of the intended claim limitations. Accordingly, applicants submit the foregoing amendments in order to clarify these already-claimed limitations and to properly present these limitations to the Examiner for his consideration. Because applicant is merely clarifying the already-claimed elements, no new consideration is needed. Entry of this amendment is respectfully requested.

Forno fails to disclose a grip sized and shaped to permit the user to curl his or her fingers around the grip. Instead, Forno discloses a basket with an upstanding sidewall, a lip extending outwardly from the sidewall, and a large hole in the lip. The Office action points to the sheet sidewall 38 extending downwardly from the lip 42 and the minute radiused edge between the sidewall 38 and the hole and apparently argues that this radiused edge and sidewall is a handle ("the asserted handle"). See Fig. 3 of Forno. While applicants assert that this small edge and downwardly extending sidewall is not a handle, applicants have amended claim 1 to even further define away from Forno. Forno fails to expressly disclose that the asserted handle is shaped and sized to permit the user to curl his or her fingers around the grip. The Office points to no disclosure in Forno describing the asserted handle, and only vaguely points to the drawings. Again, there is no express teaching anywhere in Forno that a user could curl his fingers around the asserted handle.

Further, Forno fails to inherently disclose the noted claim element. To inherently disclose a claim limitation, a prior art reference must necessarily include that limitation.

Possibilities and probabilities are not enough. MPEP § 2112. Forno does not necessarily disclose that the asserted handle is sized as claimed, because the radiused edge is likely too small to allow a user to curl his fingers about it. The office points to no objective evidence to the contrary. Further, in the device of Forno, the user grasps the outside of the lip. This is so, because the cover 60 is disclosed as covering the holes in the lip, thereby making it impossible to use the asserted handle to carry the basket when the cover is on. Because Forno fails to inherently disclose or suggest that the asserted handle in any way is sized and shaped to allow a user to curl his fingers around it, claim 1 is allowable.

With regard to claim 18, Forno fails to expressly or inherently disclose that the asserted handle is sized such that when the user places his fingers through the hole in the lip, he can curl his fingers around the alleged handle. Accordingly, claim 18 is allowable for this further reason.

Accordingly, independent claims 1 and 18 are not anticipated by Forno. Delouvre, U.S. Patent No. 425,275, cited against various dependent claims, adds nothing in this regard. Because none of the cited references disclose the noted claim limitations, claims 1 and 18 are allowable. Dependent claims 2-7, 9, 13, and 19-21 are allowable for at least the same reasons.

Claims 14, 16, and 22 are Allowable.

As amended applicants respectfully traverse the rejection to claim 14 as anticipated under 35 U.S.C. § 102(b) by Forno, U.S. Patent No. 5,851,484. Claim 14 recites, in part, a first grip including a lower surface facing downwardly and sized and shaped to permit a user to place his or her fingers underneath the grip such that the user can support the basket by pressing upward on the lower surface.

Forno fails to expressly or inherently disclose the claimed grip. Again, Forno fails to expressly disclose in the specification that the asserted handle is sized to permit a user to apply upward force to the surface to lift the basket. This is because Forno is not designed to be used in such a manner. Further, Forno fails to inherently disclose this claimed element because the basket of Forno does not necessarily include this feature. See MPEP § 2112. For example, the radiused edge is likely so small that it could not support the weight of the entire basket. Because this is a possibility which cannot be denied, Forno does not necessarily disclose that the asserted handle can be used to lift the basket by applying upward force.

Accordingly, claim 14 is allowable over Forno. Dependent claims 16 and 22 are allowable for at least the same reasons.

CONCLUSION

In view of the above amendment, the pending application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the subject application, the examiner is invited to call the undersigned attorney.

No fee is believed due at this time. However, if any fee is due, please charge our Deposit Account No. 13-2855, under Order No. 29939/03015 from which the undersigned is authorized to draw.

Dated: June 7, 2006

Respectfully submitted,


By _____

Russell C. Petersen

Registration No.: 53,457
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant